

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 1941

By: McCall

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5  
6 AS INTRODUCED

7 An Act relating to mining; amending 45 O.S. 2021,  
8 Sections 723 and 724, which relate to definitions and  
permits; modifying definition; defining term;  
9 modifying reference to certain responsible party;  
10 requiring application contain certain information  
regarding contract miners; requiring identification  
11 of contract miner; requiring certain assignment be  
subject to notice and hearing requirements; and  
providing an effective date.

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15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 45 O.S. 2021, Section 723, is  
17 amended to read as follows:

18 Section 723. Whenever used or referred to in Sections 722  
19 through 738 of this title, unless a different meaning clearly  
20 appears from the context:

21 1. "Overburden" means all of the earth and other materials  
22 which lie above natural deposits of minerals, and also means such  
23 earth and other materials disturbed from their natural state in the  
24 process of surface mining;

1           2. "Mine" means an underground or surface excavation and  
2 development with or without shafts, slopes, drifts or tunnels for  
3 the extraction of minerals, with hoisting or haulage equipment and  
4 appliances for the extraction thereof, and shall embrace any and all  
5 of the land or property of the plant, and the surface and  
6 underground, that contribute directly or indirectly to the mining  
7 properties, concentration or handling of minerals;

8           3. "Mining" means the extraction of minerals from natural  
9 deposits by any method or process;

10          4. "Minerals" means asphalt, clay, copper, granite, gravel,  
11 gypsum, lead, marble, salt, sand, shale, stone, tripoli, volcanic  
12 ash and zinc, or any other substance commonly recognized as a  
13 mineral, and includes ores or rock containing any such substances,  
14 but excludes oil, gas and any other mineral found naturally in a  
15 liquid or gaseous state;

16          5. "Underground mining" means those mining operations carried  
17 out beneath the surface by means of shafts, slopes, tunnels or other  
18 openings leading to the mineral being mined and the extraction of  
19 the mineral through such shafts, slopes, tunnels or their openings;

20          6. "Surface mining" means those mining operations carried out  
21 on the surface, including strip mining, auger mining, quarrying,  
22 dredging, pumping, or the use of hydraulic methods.

23          Surface mining shall not include excavation or removal of shale,  
24 sand, gravel, clay, rock or other materials in remote areas by an

1 owner or holder of a possessory interest in land for the primary  
2 purpose of construction or maintenance of access roads to or on such  
3 landowner's property. Surface mining shall not include excavations  
4 or grading conducted for forming, on-site road construction or other  
5 on-site construction, or the extraction of minerals other than  
6 anthracite and bituminous coal by a landowner for noncommercial use  
7 from land owned or leased by the landowner; nor mining for  
8 commercial purposes conducted under a Limited Use Permit issued by  
9 the Department; nor the extraction of sand, gravel, rock, stone,  
10 earth or fill from borrow pits for highway construction purposes, so  
11 long as such work is performed under a bond, contract and  
12 specifications which substantially provide for and require  
13 reclamation of the area affected; nor to the handling, processing or  
14 storage of slag on the premises of a manufacturer as a part of the  
15 manufacturing process. Surface mining shall not include the surface  
16 mining of coal or the surface effects of underground coal mining;

17 7. "Strip mining" means those mining operations carried out by  
18 removing the overburden lying above natural deposits of minerals,  
19 and mining directly from such natural deposits thereby exposed, but  
20 excludes auger mining, quarrying, dredging, pumping or the use of  
21 hydraulic methods;

22 8. "Reclamation" means conditioning affected land to make it  
23 suitable for any uses or purposes consistent with those enumerated  
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1 in Section 722 of this title, and to avoid, minimize or correct  
2 adverse environmental effects of mining operations;

3 9. "Box cut" means the first open cut in strip mining which  
4 results in the placing of overburden on unmined land adjacent to the  
5 initial pit and outside the area to be mined;

6 10. "Consolidated material" means material of sufficient  
7 hardness or ability to resist weathering and to inhibit erosion or  
8 sloughing;

9 11. "Operator" means any person, partnership, firm or  
10 corporation engaged in and controlling a mining operation,  
11 regardless of whether the person, partnership, firm or corporation  
12 actually conducts the mining activities of the mining operation;

13 12. "Pit" means a tract of land from which overburden or  
14 minerals have been or are being removed in the process of surface  
15 mining;

16 13. "Affected land" means the area of land from which  
17 overburden shall have been removed, or upon which overburden or  
18 refuse has been deposited, or both;

19 14. "Refuse" means all waste material directly connected with  
20 the production, cleaning or preparation of minerals which have been  
21 mined by either underground or surface mining method;

22 15. "Ridge" means a lengthened elevation of overburden created  
23 in the surface mining process;

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1 16. "Peak" means a projecting point of overburden created in  
2 the surface mining process;

3 17. "Department" means the office of the Chief Mine Inspector,  
4 herein called the Department of Mines and Mining, or such  
5 department, bureau or commission as may lawfully succeed to the  
6 powers and duties of such department;

7 18. "Director" means the Chief Mine Inspector of the State of  
8 Oklahoma or such officer, bureau or commission as may lawfully  
9 succeed to the powers and duties of such Chief Mine Inspector;

10 19. "Borrow pit" means the one-time or intermittent extraction  
11 of sand, gravel, rock, stone, earth or fill in its natural state,  
12 not being mechanically altered to affect its size for government-  
13 financed construction purposes. Such work shall be performed under  
14 a bond, contract and specifications which substantially provide for  
15 and require reclamation of the affected area; ~~and~~

16 20. "Dimension stone quarry" means a site where natural stone  
17 used as building material is excavated and the stones are selected,  
18 trimmed, or cut to specified shapes or sizes; and

19 21. "Contract miner" means any person, partnership, firm or  
20 corporation which actually conducts the mining activities of a  
21 mining operation on behalf of an operator.

22 SECTION 2. AMENDATORY 45 O.S. 2021, Section 724, is  
23 amended to read as follows:

1 Section 724. A. It shall be unlawful for any operator to  
2 engage in any mining operations in this state without first  
3 obtaining a permit or a Limited Use Permit from the Department of  
4 Mines for each separate mining operation. The Department shall  
5 determine what constitutes a separate mining operation by rules  
6 promulgated under the Mining Lands Reclamation Act.

7 B. Any operator desiring to engage in limited mining activity  
8 may apply for a Limited Use Permit for those mining operations not  
9 eligible for a surface mining permit. Application for such permit  
10 shall be made upon forms furnished by the Department. The form  
11 shall contain a description of the tract or tracts of land and shall  
12 include the section, township, range and county in which the land is  
13 located. A map shall be attached to the application which  
14 accurately outlines and locates the tract of land. A statement that  
15 the ~~applicant~~ operator has the right and power by legal estate owned  
16 to mine the land so described shall be included with the  
17 application. The application shall clearly indicate whether the  
18 operator will conduct mining activities itself, or whether the  
19 operator intends to use a contract miner to conduct mining  
20 activities. If the operator intends to use a contract miner, the  
21 application shall clearly identify the contract miner. In addition,  
22 the following conditions and requirements shall apply to Limited Use  
23 Permits:

- 24 1. The maximum acreage shall be restricted to two (2) acres;

1        2. The term of a Limited Use Permit shall not exceed twelve  
2 (12) months from the date of issuance;

3        3. A Limited Use Permit shall not carry a right of successive  
4 renewal;

5        4. A Limited Use Permit site must be reclaimed as required by  
6 Section 725 of this title within six (6) months following the  
7 expiration of the permit term;

8        5. A three-thousand-five-hundred-dollar reclamation bond must  
9 be filed with the Department prior to issuance of the permit;

10       6. Failure to reclaim the site disturbance within the permitted  
11 time frame or revocation of the Limited Use Permit will be cause for  
12 bond forfeiture or other action as may be ordered by the Department;

13       7. The use of processing equipment shall not be approved for a  
14 Limited Use Permit;

15       8. The use of explosives shall not be approved under a Limited  
16 Use Permit;

17       9. A processing fee of One Hundred Dollars (\$100.00) shall  
18 accompany the application for a Limited Use Permit; and

19       10. Mining production shall be reported and paid as required by  
20 Section 931 of this title.

21       If the above listed conditions and requirements are met, the  
22 Department may issue a Limited Use Permit which shall not be subject  
23 to the notice and publication requirements as otherwise required by  
24 this section.

1 C. 1. Any operator desiring to engage in surface mining shall  
2 make written application to the Department for a permit.  
3 Application for such permit shall be made upon a form furnished by  
4 the Department. The form shall contain a description of the tract  
5 or tracts of land and the estimated number of acres to be affected  
6 by surface mining by the operator. The description shall include  
7 the section, township, range and county in which the land is located  
8 and shall otherwise describe the land with sufficient certainty so  
9 that it may be located and distinguished from other lands. The  
10 application shall clearly indicate whether the operator will conduct  
11 mining activities itself, or whether the operator intends to use a  
12 contract miner to conduct mining activities. If the operator  
13 intends to use a contract miner, the application shall clearly  
14 identify the contract miner.

15 2. Transmission lines shall be plotted on a location map  
16 submitted with the application. A statement that the operator has  
17 the right and power by legal estate owned to mine by surface mining  
18 the land so described shall be included with the application.

19 D. 1. Any operator desiring to engage in underground mining  
20 shall make written application to the Department for a permit.  
21 Application for such permit shall be made upon a form furnished by  
22 the Department. The form shall contain a description of the tract  
23 or tracts of land to be used as refuse disposal areas. The  
24 description shall include the section, township, range and county in



1 which the land is located and shall otherwise describe the land with  
2 sufficient certainty so that it may be located and distinguished  
3 from other lands. The application shall clearly indicate whether  
4 the operator will conduct mining activities itself, or whether the  
5 operator intends to use a contract miner to conduct mining  
6 activities. If the operator intends to use a contract miner, the  
7 application shall clearly identify the contract miner.

8 2. A statement that the ~~applicant~~ operator has the right and  
9 power by legal estate owned to use the land so described as a refuse  
10 disposal area shall be included with the application.

11 E. Each application for a permit under subsections C and D of  
12 this section shall be accompanied by a plan of reclamation of the  
13 affected land that meets the requirements of the Mining Lands  
14 Reclamation Act. The application shall set forth the proposed use  
15 to be made of the affected land, the grading to be accomplished, the  
16 type of revegetation, and shall include the approximate time of  
17 grading and initial revegetation effort.

18 F. Each application for a permit under subsections C and D of  
19 this section shall be accompanied by the bond or security meeting  
20 the requirements of Section 728 of this title, or proof that such  
21 bond or security is still in effect, and a fee of One Hundred  
22 Seventy-five Dollars (\$175.00) for each permit year, payable at the  
23 rate of One Hundred Seventy-five Dollars (\$175.00) per year on the  
24 anniversary date of the year in which the permit or permit renewal

1 was issued. All application fees shall be submitted to the State  
2 Treasurer, who shall deposit them in the Department of Mines  
3 Revolving Fund.

4 G. 1. Upon the receipt of such application, bond or security  
5 and fee due from the operator, the Department may issue a permit to  
6 the ~~applicant~~ operator which shall entitle the ~~applicant~~ operator to  
7 engage in mining on the land therein described in accordance with  
8 the rules promulgated by the Department, for the life expectancy of  
9 the operation unless the operator is in violation of any state  
10 statute or rule of the Department in which case the Department shall  
11 take appropriate action against the operator.

12 2. All applications for renewal of existing permits shall be  
13 filed prior to the expiration of the existing permit in accordance  
14 with the rules promulgated by the Department.

15 3. No permit shall be issued except upon proper application and  
16 public hearing, if requested.

17 H. 1. a. Upon filing the application with the Department, the  
18 ~~applicant~~ operator shall place an advertisement in a  
19 newspaper of general circulation in the vicinity of  
20 the mining operation, containing such information as  
21 is required by the Department, at least once a week  
22 for four (4) consecutive weeks.

23 b. The advertisement shall contain, at a minimum, the  
24 following:

- 1 (1) the name and business address of the ~~applicant~~  
2 operator,
- 3 (2) a description which clearly shows or describes  
4 the precise location and boundaries of the  
5 proposed permit area and is sufficient to enable  
6 local residents to readily identify the proposed  
7 permit area. It may include towns, bodies of  
8 water, local landmarks, and any other information  
9 which would identify the location,
- 10 (3) the location where a copy of the application is  
11 available for public inspection,
- 12 (4) the name and address of the Department where  
13 written comments, objections, or requests for  
14 informal conferences on the application may be  
15 submitted pursuant to subsection P of this  
16 section,
- 17 (5) if an ~~applicant~~ operator seeks a permit to mine  
18 which includes relocation or closing of a public  
19 road, a copy of the county resolution pertaining  
20 to the affected county road, and
- 21 (6) such other information as is required by the  
22 Department.

23 2. Any property owner or resident of an occupied dwelling who  
24 may be adversely affected located within one (1) mile of the mining

1 operation shall have the right to protest the issuance of a permit  
2 and request a public hearing.

3 3. The Department shall notify the surface owners of any  
4 hearings in connection with applications or permits in the same  
5 manner as the operator is notified.

6 4. Such protests must be received by the Department within  
7 fourteen (14) days after the date of publication of the newspaper  
8 advertisement. If a public hearing is requested, the Department  
9 shall then hold an informal hearing in the vicinity of the proposed  
10 mining.

11 5. Upon completion of findings after the hearing, the  
12 Department shall determine whether to issue or deny the permit, and  
13 shall notify all parties of its decision.

14 6. Any decision regarding the issuance of a permit under this  
15 section shall be appealable when entered, as provided in the  
16 Administrative Procedures Act.

17 I. Each application for a new operation shall contain, where  
18 applicable, a list of all other licenses and permits needed by the  
19 ~~applicant~~ operator to conduct the proposed mining operation. This  
20 list shall identify each license and permit by:

- 21 1. Type of permit or license;
- 22 2. Name and address of issuing authority;

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1           3. Identification number or a copy of the application for  
2 permits or licenses or, if issued, a copy of the permit or license;  
3 and

4           4. If a decision has been made, the date of approval or  
5 disapproval by each issuing authority.

6           An existing operation which does not have on file a list of the  
7 applicable licenses or permits with the Department on the date of  
8 enactment of this act shall not be out of compliance with the  
9 provisions of this section. Any renewal of an existing permit or  
10 expansion or amendment to an existing operation upon time of  
11 application shall submit a copy of all approved licenses and permits  
12 issued by other agencies or jurisdictions.

13           Identifications of all permits and licenses shall include local  
14 government agencies with jurisdiction over or an interest in the  
15 area of the proposed mining operation including, but not limited to,  
16 planning agencies, water and sewer authorities; and all state and  
17 federal government agencies with authority to issue permits and  
18 licenses applicable to the proposed mining operation, including all  
19 state environmental agencies, U.S. Army Corps of Engineers, U.S.  
20 Department of Agriculture Natural Resources Conservation Service  
21 district office, and federal fish and wildlife agencies.

22           J. An operator desiring to have such operator's permit amended  
23 to cover additional land may file an amended application with the  
24 Department. Upon receipt of the amended application, and such

1 additional bond as may be required under the provisions of the  
2 Mining Lands Reclamation Act, the Department shall issue an  
3 amendment to the original permit covering the additional land  
4 described in the amended application, without the payment of any  
5 additional fee.

6 K. An operator may withdraw any land covered by a permit,  
7 deleting affected land therefrom, by notifying the Department, in  
8 which case the penalty of the bond or security filed by such  
9 operator pursuant to the provisions of the Mining Lands Reclamation  
10 Act shall be reduced proportionately.

11 L. Permits issued to an operator may be transferable to another  
12 operator, provided the new operator can demonstrate to the  
13 Department, prior to the transfer of ownership, that conditions and  
14 obligations required for the permit will be met and the new operator  
15 has submitted a performance bond or other guarantee, or has obtained  
16 the bond coverage of the original permittee.

17 M. The perimeter of the permit area shall be clearly marked by  
18 durable and recognizable markers or by other means approved by the  
19 Department.

20 N. The Department shall determine the blasting distance to  
21 transmission lines by rule.

22 O. 1. If any mining operations where blasting is required  
23 occur within the limits of a municipality with a population in  
24 excess of three hundred thousand (300,000) according to the latest

1 Federal Decennial Census or within the limits of a municipality  
2 within a county with a population in excess of three hundred  
3 thousand (300,000) according to the latest Federal Decennial Census,  
4 the application for a permit pursuant to subsections C and D of this  
5 section shall be accompanied by proof that the operator is in full  
6 compliance with all applicable regulations of the municipality.  
7 Certified copies of any required municipal permits and any other  
8 required written municipal approvals shall be attached to the  
9 application when submitted to the Department. No mining permit  
10 shall be issued by the Department unless the ~~applicant~~ operator  
11 first complies with the requirements of this subsection. A  
12 municipality is not required to reconsider requests denied by the  
13 municipality related to the same site unless the municipality  
14 determines there has been a material change in the application.

15 2. The provisions of paragraph 1 of this subsection shall not  
16 apply to existing permitted operations, revisions or amendments  
17 thereto, or any application on file with the Department prior to May  
18 25, 2005. In addition, the provisions of paragraph 1 of this  
19 subsection shall not apply to any future operation on property  
20 directly adjacent to property on which a permitted operation is  
21 located, provided that the operation is permitted and the adjacent  
22 property is owned or leased by the operator on the effective date of  
23 this act. For purposes of this subsection, properties separated by  
24 a public road shall be considered to be adjacent.

1 P. Within a reasonable time, as established by the Department,  
2 written comments or objections on permit or bond release  
3 applications may be submitted to the Department by public entities  
4 including but not limited to the local soil conservation district,  
5 with respect to the effects of the proposed mining operations on the  
6 environment.

7 Q. Any person having an interest in or who is or may be  
8 adversely affected by the decision on a permit or bond release  
9 application, or any federal, state or local agency, shall have the  
10 right to request in writing that the Department hold an informal  
11 conference on the application. The Department shall hold the  
12 informal conference within a reasonable time following the receipt  
13 of the written request at a location in the vicinity of the proposed  
14 or active surface mining or reclamation operation.

15 R. The assignment of mining activities by an operator to a  
16 contract miner shall be subject to the notice and hearing  
17 requirements of subsection H of this section.

18 SECTION 3. This act shall become effective November 1, 2023.

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20 59-1-6227 JBH 12/19/22  
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